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REMARKS

In response to the Office Action mailed May 29, 2009, Applicant respectfully requests reconsideration. To further the prosecution of this Application, Applicant submits the following remarks. The claims as now presented are believed to be in allowable condition.

Election/Restriction

A restriction requirement was issued. Claims 1 -13 (Group I) were drawn to a method for controlling a powder press. The remaining claims were restricted into four other distinct groups.

The Office Action references a prior telephone conversation with Applicant's Representative, Paul Remus in which Mr. Remus elected Group I without traverse. Applicant hereby affirms the election of Group I without traverse. Claims 14 - 55 have been cancelled.

Claims 1 - 55 were pending in this Application. By this Amendment, claims 7 and 14 - 55 have been canceled. Applicant expressly reserves the right to prosecute at least some of the canceled claims and similar claims in one or more related Applications. Claims 56 - 62 have been added. Accordingly, claims 1 - 6, 8 - 13, and 56 - 62 are now pending in this Application. Claims 1, 56, 59, and 61 are independent claims.

Paragraph [0059] has been amended to make reference numerals consist with the Figures.

35 USC §112 Rejection

The office action cites the second paragraph of 35 USC § 112. The office action then states "Claim 13 recites the limitation 'step of controlling the lubrication of the die cavity.' in line 1. There is insufficient antecedent basis for this limitation in the claim."

Claim 13 has been amended to be dependent on the claim 56 which has been added. By referencing claim 56, a proper antecedent basis has been provided. Claim 56 adds no new material and has elements that were claimed in claim 32 as filed.

Rejections under §103

Claims 1 - 9, 11, and 12 were rejected under 35 U.S.C. §103(a) as being unpatentable over Hara et al (U.S. Patent 3,687,586) or Hermes (U.S. Patent 3,758,245) in view of Lashmore et al (U.S. Patent 5,897,826). Claim 10 was rejected under 35 U.S.C. §103(a) as being unpatentable over Hermes in view of Lashmore as applied to claim 1 and further in view of Link et al (U.S. Patent 5,906,836).

Applicant respectfully traverses each of these rejections and requests reconsideration. The claims are in allowable condition.

In order to establish a *prima facie* case of obviousness, the Office Action must meet three criteria.

"First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations."<sup>1</sup>

Claim 1 as amended recites "controlling a pressure of a fluid provided to each of at least one piston that is operatively associated with each set of workpiece-forming punches." The prior art cited does not disclose or suggest controlling a pressure of a fluid to each piston. Claim 1 is allowable.

Claims 2 - 6 and 8 - 12 are dependent on claim 1 and allowable, at least, for the reasons cited above.

Claims 4, 6, and 12

Claims 4, 6, and 12 are dependent on claim 1. These claims are allowable, at least for the reasons cited above. Furthermore, it is acknowledged in the office action that the prior art cited does not teach all the elements of the claims. With respect to claim 4, it is stated that "it is known in the art that particulate material can be warm compacted in the die." With respect to claim 6, it is stated that "one skilled in the art would be motivated

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<sup>1</sup> *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

to heat the pressurized gas in order to heat the particulate material during uniform distributing the particulate material in the die cavity.” With respect to claim 12, it states that “such modification would have been obvious since pressing force applied by the punches must be reduced while the part is remained in the die before injecting part in order to provide support for the part.”

While it is stated that it would be obvious with respect to the above elements, the office action does not support such statement. Claims 4, 6, and 12 are allowable.

#### Claims 8 and 9

Claims 8 and 9 are dependent on claim 1. These claims are allowable, at least for the reasons cited above. Furthermore claim 8 recites the steps of:

- 1) determining a pressure of a fluid provided to each of at least one piston that is operatively associated with each set of workpiece-forming punches,
- 2) comparing the pressure of the fluid provided to each piston to a pressure corresponding to a desired pressing force, and
- 3) adjusting the pressure of the fluid provided to each piston based upon a result of the comparing step.

While the office action indicates that the limitation can be found at Hara column 6, line 49 to column 7, line 19 and Hara column 3, lines 3 -10, the applicant does not see where the prior art suggest “adjusting the pressure of the fluid provided to each piston based upon a result of the comparing step.” Claim 8 is allowable.

Claim 9 is dependent on claim 8 and is allowable.

#### Claim 13

Claim 13 is dependent on claim 56 as discussed above. Claim 13 is allowable, at least, for the reasons cited above. Furthermore, claim 13 was not rejected based on prior art in the office action. Claim 13 is allowable.

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Claims 56 and 59

Claim 56 recites controlling a lubrication of the die cavity. As indicated above, the lubrication of the die cavity is not discussed in the office action with regard to what is disclosed by the prior art. Claim 56 is allowable for the reasons cited above.

Claim 59 recites similar elements to those recited in claim 8 and discussed above. Claim 59 is allowable for the reasons cited above.

Claims 57, 58, and 60 are dependent either claim 56 or 59 and are allowable at least for the reasons cited above.

Claims 61 and 62 recited elements discussed above and are allowable, at least, for the reasons cited above.

Conclusion

In view of the foregoing remarks and amendments, this application should be in condition for allowance. A notice to this affect is respectfully requested.

The examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application. Please apply any charges not covered, or any credits, to Deposit Account 04-0932 (Reference Number 15344/69391E).

Respectfully submitted,

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